

## **REMARKS**

### **Examiner Interview**

Applicant thanks the Examiner for the telephonic interview of 18 January 2006 in which the declaration of the inventors under 35 U.S.C. § 1.131 was discussed.

### **Rejections**

#### ***Rejections under 35 U.S.C. § 102***

Claims 11-18, 21-30, 36, 37, 46-48, 50-52 and 58-60 stand rejected under 35 U.S.C. § 102(e) over U.S. Patent 6,725,461 to Dougherty. Dougherty's effective filing date is April 30, 1998.

The Examiner stated that the declaration of the inventors under 35 U.S.C. § 1.131 submitted on September 8, 2005 was insufficient to establish diligence in reducing the invention to practice.

Applicant is submitting herewith declaration of Sheryl Sue Holloway under 35 U.S.C. § 1.131. Applicant respectfully submits that the evidence establishes that the attorney, Maria McCormick Sobrino, used reasonable diligence in preparing the above-referenced patent application during the critical period:

Reasonable diligence is all that is required of the attorney. Reasonable diligence is established if attorney worked reasonably hard on the application during the continuous critical period. If the attorney has a reasonable backlog of unrelated cases which he takes up in chronological order and carries out expeditiously, that is sufficient. Work on a related case(s) that contributed substantially to the ultimate preparation of an application can be credited as diligence. [MPEP 2138.06: *Bey v. Kollonitsch*, 866 F.2d 1024, 231 USPQ 967 (Fed. Cir. 1986)]

Accordingly, Dougherty cannot be properly considered as prior art to Applicant's invention, and Applicant respectfully requests the withdrawal of the rejection of claims 11-18, 21-30, 36, 37, 46, 50 and 58 under 35 U.S.C. § 102(e) over Dougherty.

#### ***Rejections under 35 U.S.C. § 103***

Claims 31, 32, 43-45, 49 and 57 stand rejected under 35 U.S.C. § 103(a) over Dougherty in view of U.S. Patent 5,699,107 to Lawler et al. Claims 31, 32, 43-45, 49 and 57 depend from one of independent claims 11, 21 or 57. Dougherty is not prior art to Applicant's invention. Applicant respectfully submits that Lawler alone does not

anticipate Applicant's invention as claimed in claims 11, 21 and 57, and thus cannot be properly interpreted as rendering obvious the dependent claims. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 31, 32, 43-45, 49 and 57 under 35 U.S.C. § 103(a).

### **SUMMARY**

Claims 11-18, 21-32, 36, 37, 43-52 and 57-60 are currently pending. In view of the foregoing amendments and remarks, Applicant respectfully submits that the pending claims are in condition for allowance. Applicant respectfully requests reconsideration of the application and allowance of the pending claims.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Sue Holloway at (408) 720-8300 x309.

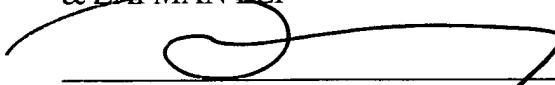
### **Deposit Account Authorization**

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR  
& ZAFMAN LLP

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